

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 1563 of 1990****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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UNITED INDIA INSURANCE CO LTD - Appellant(s)
Versus
DINANATH SHIVRAM JUGDE & 1 - Defendant(s)

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Appearance :

MR KF DALAL for Appellant(s) : 1,
MR FB BRAHMBHATT for Defendant(s) : 1,
None for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 21/08/2006****ORAL JUDGMENT**

1. By way of this appeal the appellant has challenged the judgement and award dated 30.03.1990 passed by the Motor Accident Claims Tribunal No. (3) (Aux.) Ahmedabad, in M.A.C.P. No. 215 of 1987 whereby the Tribunal has partly allowed the same and ordered the original opponents to jointly and severally pay Rs. 92,440/- with interest at the rate of 12% to the original claimant.

2. The short facts of the case are that on 03.04.1987 at about 6.00 p.m. the original applicant was proceeding

towards odhav on his Luna bearing Registration No. G.B.M. 3037. At that time the original opponent No. 1 the scooterist came from the opposite side and dashed his scooter bearing Registration No. G.A.L. 4784 against the original applicant's. As a result of this the original applicant sustained serious bodily injuries and he was therefore taken into hospital and was admitted in hospital until 07.04.1981. Therefore the original applicant has filed a claim petition of Rs. 1,00,000/- by ways of compensation. Tribunal after hearing the parties passed the aforesaid order.

3. Learned advocate for the present appellant has submitted that the Tribunal has erred in not appreciating that the panchnama was not drawn up immediately and therefore the same could not be relied upon. He further submitted that the Tribunal laid great emphasis on the fact that the driver had pleaded guilty and therefore should be held guilty of negligence.

5. Heard I have gone through the judgement and award of the Tribunal. As a result of this exercise it is clear from the panchnama that on 45 feet north-south road, the original claimant was coming from south to north and was 5 feet away from western end of the road and at that time the opponent came from opposite side.

The width of the road above that there is sufficient space on the road to drive, but opponent not only crossed the mid line but he came on the wrong side and hit the original claimant.

7. After considering the evidence the Tribunal has awarded an amount of Rs. 8,000/- under the head of pain, shock and suffering, which is quite justified. In view of the fact that the original claimant was not able to work for 75 days he would be entitled to Rs. 6,000/- on that count. Under all other different heads Tribunal has awarded totally compensation of Rs. 92,440/-. Nothing is pointed out to show that the compensation awarded is so exorbitant that this Court should interfere in the same.

6. In the premises aforesaid, the present appeal is dismissed. No order as to costs.

[K.S. JHAVERI, J.]

Suresh*